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HON. SYLVIA O. HINDS-RADIX
 Corporation Counsel

GREGORY ACCARINO
 Senior Counsel
 Phone: (212) 356-1945

Corporation Counsel shall provide a status letter by **Tuesday, January 23, 2024** regarding the status of the Midstate security review of the video evidence and advising the Court whether and when Plaintiff was permitted or will be permitted to view the relevant evidence.

The deadline for Defendants' Reply to the opposition to the Motion for Summary Judgment is extended to **Wednesday, March 20, 2024**.

Corporation counsel shall send a copy of this Order to the Warden of Midstate Correctional Facility immediately. The Clerk of Court is respectfully directed to mail a copy of this order to Plaintiff.

BY ECF

Honorable Katherine H. Parker
 United States Magistrate Judge
 United States District Court
 Southern District of New York
 500 Pearl Street
 New York, New York 10007

SO ORDERED:

Katherine H. Parker

Re: Kwayne Thompson v. City of New York, et al
 22 Civ. 1458 (JPO) (KHP)

HON. KATHARINE H. PARKER
 UNITED STATES MAGISTRATE JUDGE 1/9/2024

Your Honor:

I am a Senior Counsel in the office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney assigned to represent defendants City of New York, Katrese Brumfield, Jessica Simmons, Debbie Palmer-Campbell, Tiffany Francis, Chandra Davis, and Tony Montague ("defendants") in the above-referenced matter. The defendants respectfully write, in accordance with the December 21, 2023 Court Order to "(1) provide an update to the Court regarding Corporation Counsel's conversation with the Warden and (2) advise the Court whether and when Plaintiff was permitted or will be permitted to view the relevant evidence," in regard to plaintiff's letter, filed December 19, 2023, informing the Court that he was not permitted an opportunity to view the video evidence in this case. See ECF No. 21, Order, December 21, 2023; ECF No. 91, Letter, December 2023. Furthermore, in the December 19, 2023 Court Order granting plaintiff *in forma pauperis* status, the Court extended plaintiff's deadline to respond to defendants' Motion for Summary Judgment to March 5, 2024, with defendants' Reply Motion due March 19, 2024. The defendants respectfully request an extension of the reply deadline until March 26, 2024 for the reasons outlined below, including the fact that the undersigned will be out on previously scheduled leave during that period. See ECF No. 92, Order, December 19, 2023.

By way of background, plaintiff has been incarcerated at Midstate Correctional Facility ("Midstate") since the spring of 2023 and the defendants have provided plaintiff with all the audio and video evidence in this case by mailing CDs and USB drives to plaintiff's facility. On December 19, 2023, plaintiff filed a letter with the Court stating, "I was told that I would never be able to view and video or USB at this facility as long as I have pending lawsuits against

correctional officers. See ECF No. 91, December 19, 2023. On December 21, 2024, the Court Ordered the defendants to contact plaintiff's facility to ensure that plaintiff would be able to view the video evidence in this case. See ECF No. 21, Order, December 21, 2023.

On December 21, 2023, the undersigned contacted Midstate concerning plaintiff's letter and forwarded them the December 21, 2023 Court Order. On December 22, 2023, Midstate informed the undersigned that they do in fact "allow incarcerated individuals to review DVDs/CDs pertaining to court proceedings," but the DVDs/CDs will have to be reviewed by the security team prior to plaintiff viewing them to determine there are no security concerns. Midstate further stated they would make arrangements to have security review the materials to have plaintiff review them. However, Midstate further informed the undersigned that they did not have the capability of permitting plaintiff to view files on USB drives. The undersigned informed Midstate that he would re-send all the media evidence in the case that was previously produced, and put them on DVDs/CDs instead of a USB drive. On December 26, 2023, the undersigned mailed Midstate two DVDs, (1) one DVD containing all the media files in this case that was previously sent on a USB drive, and (2) one DVD containing all the media file exhibits included in defendants' Motion for Summary Judgment, that were previously sent to Midstate when defendants' Motion for Summary Judgment was served. On January 3, 2024, Midstate confirmed that they received the two DVDs, and informed the undersigned that the DVDs were forwarded to the Captain for security review.

On January 8, 2024, Midstate informed the undersigned that they were following-up with the security team concerning their status of reviewing the footage and would provide an update once a response was received. If the Court requires, the defendants can provide a Court with an additional update in two (2) weeks, on January 22, 2024, as the Office of Corporation Counsel will continue to communicate with the facility.

Furthermore, on December 19, 2023, this Court granted plaintiff *in forma pauperis* status and re-set the deadlines for defendants' Motion for Summary Judgment including a deadline for plaintiff's opposition for March 5, 2024, and a deadline for defendants' reply motion for March 19, 2024. See ECF NO. 92, Order, December 19, 2024. The undersigned will be out on previously scheduled leave from February 28, 2024 until March 12, 2024, which covers half the time the Court permitted the defendants to work on their reply motion. Accordingly, the defendants respectfully request the Court grant the defendants a deadline of March 20, 2024 for their Reply Motion.

Accordingly, the defendants respectfully request that the Court grant them a deadline of March 20, 2024 for their Reply Motion for Summary Judgment.

The defendants thank the Court for its consideration.

Respectfully submitted,

/s/ Gregory J.O. Accarino
Gregory J.O. Accarino
Senior Counsel
Special Federal Litigation Division

Cc: **By U.S. Mail:**
Kwaine Thompson
Plaintiff *Pro Se*
#23B0962
Mid-State Correctional Facility
P.O. Box 2500
Marcy, New York 13403

DECLARATION OF SERVICE BY MAIL

I, Gregory J.O. Accarino, declare, pursuant to 28 U.S.C. § 1746, under penalty of perjury that on January 8, 2024, I served the annexed:

- COURT LETTER CONCERNING PLAINTIFF VIEWING MEDIA EVIDENCE, DATED January 8, 2024

upon the following Plaintiff *Pro Se* by serving copies of the same to be deposited, enclosed in a first class postpaid properly addressed wrapper, in a post office/official depository under the exclusive care and custody of the United States Postal Service, within the State of New York, directed to Plaintiff at the address set forth below, being the address designated by Plaintiff for that purpose:

Kwaine Thompson
Plaintiff *Pro Se*
#23B0962
Mid-State Correctional Facility
P.O. Box 2500
Marcy, New York 13403

Dated: New York, New York
January 8, 2024

/s/ Gregory J.O. Accarino
Gregory J.O. Accarino
Senior Counsel
Special Federal Litigation Division